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EXAMINER

GANTT, ALAN T

| ART UNIT | PAPER NUMBER |
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2684

DATE MAILED: 12/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/767,839

Applicant(s)

MOONEY ET AL.

Examiner

Alan T. Gantt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 37 and 38 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-17, 19-36 and 39-48 is/are rejected.
- 7) ☒ Claim(s) 6, 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 8/24/04 have been fully considered but they are not persuasive. In particular, applicant argues that:

- (a) The Jakobsson reference does not disclose the selection of one of a plurality of audio signal inputs according to at least one stored selection instruction, which specifies a designated triggering event.
- (b) New claims 37-48 not referred to in last Office Action. Thus, Applicant presumes allowability of these claims unless the examiner states otherwise.
- (c) For claims 5, 13, 16, 20, 22, 23, 31, and 32, the combination of the Examiner's Official Notice with Jakobsson cannot render these claims obvious if the subject matter is not capable of instant and unquestionable demonstration.

Regarding (a), the cited paragraphs do indeed show selection of one of a plurality of audio signal inputs since as stated a CD player, a cell phone, and the wireless headset all are capable of audio outputs. The cell phone is designated as the master device with the headset and the CD player designated as slave devices. The cell phone acts as intermediary and controller. As the controller, the cell phone can be programmed to switch off the CD player when an incoming call arrives and pass the call to the wireless headset for reception by the user. Thus, per the stored selection instruction - the programming in the cell phone that shuts off the CD player based on the trigger of the arrival of an incoming call- the cell phone is selected to provide

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an audio output in the form of the arriving telephone call that has overridden the CD player audio output. Thus, the language of the claim is met.

Regarding (b), unfortunately, through an oversight these claims were not examined. They are examined as part of this Office Action. The applicant will get a chance to respond as this action is a Non Final.

Regarding (c), this aspect is analogous to line level inputs in a traditional stereo system. There is nothing magical about the CD player. The communication of the slave device with the master device is the key and substitution of the CD player with a tape player would yield the same result since the controller of the master cell phone is going to shut off the active device to pass the incoming telephone call to the headset per the stored instruction in the controller. Thus is capable of instant and unquestionable demonstration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-4, 7-11, 12, 14, 15, 17, 19, 21, 24-26, 27-30, and 36, 39-48 are rejected under 35 U.S.C. 102(e) as being anticipated by Jakobsson.

Regarding claim 1, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a method of switching between wireless audio sources. Jakobsson meets the following limitations:

receiving a plurality of input audio signals from respective wireless audio sources at a wireless receiver, (paragraphs 17 and 18)

selecting one of said plurality of input audio signals for output from an audio signal reproducing device coupled to said wireless receiver, said selecting being performed according to at least one stored selection instruction which includes a designated triggering event for triggering said selection. (paragraphs 17 and 18)

Regarding claim 2, Jakobsson meets the limitation, "A method as in claim 1, wherein said selecting is performed according to a plurality of selection instructions". (paragraphs 17 and 18- discussion of the controller of master cell phone)

Regarding claim 3, Jakobsson meets the limitation, "A method as in claim 2, wherein each of said selection instructions is associated with a respective wireless audio source so that selection of a particular wireless audio source occurs in response to a triggering event included in the associated selection instruction". (paragraph 17)

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Regarding claim 4, Jakobsson meets the limitation, "A method as in claim 1, wherein said designated triggering event includes receipt of a message from a wireless audio source". (paragraph 17)

Regarding claim 7, Jakobsson meets the limitation, "A method as in claim 1, wherein said designated triggering event includes receipt of an electronic message at a wireless audio source". (paragraph 17 – incoming phone call)

Regarding claim 8, Jakobsson meets the limitation, "A method as in claim 1, wherein said designated triggering event is a request to communicate via a mobile telephone". (paragraph 17 – incoming phone call)

Regarding claim 9, Jakobsson meets the limitation, "A method as in claim 1, wherein said wireless audio sources are in RF communication with said wireless receiver. (paragraphs 17 and 18 and Figures 1 and 2)

Regarding claim 10, Jakobsson meets the limitation, "A method as in claim 9, wherein said wireless receiver and said wireless audio sources are Bluetooth compliant". (paragraph 0002)

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Regarding claim 11, Jakobsson meets the limitation, "A method as in claim 1, wherein said wireless receiver and said audio signal reproducing device are included in a headset" (paragraphs 17 and 18).

Regarding claim 12, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a method of switching between wireless audio sources. Jakobsson meets the following limitations:

receiving a plurality of Bluetooth compliant transmissions, each including a respective input audio signal, from respective electronic devices; (paragraphs 17 and 18)

selecting at least one of said received audio signals for output to a headset in accordance with at least one stored selection instruction, said selection instruction including a designated triggering event for triggering said selection. (paragraphs 17)

Regarding claim 14, Jakobsson meets the limitation, "A method as in claim 12, wherein said selecting is performed according to a plurality of selection instructions". (paragraphs 17 and 18)

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Regarding claim 15, Jakobsson meets the limitation, "A method as in claim 14, wherein each of said selection instructions is associated with a respective electronic device so that selection of a particular electronic device occurs in response to a triggering event included in the associated selection instruction". (paragraphs 17 and 18)

Regarding claim 17, Jakobsson meets the limitation, "A method as in claim 12, wherein said designated triggering event is a mobile telephone transmission". (paragraph 17)

Regarding claim 19, Jakobsson meets the limitation, "A method as in claim 12, wherein at least one of said first and second portable electronic devices is a mobile telephone". (paragraph 17)

Regarding claim 21, Jakobsson meets the limitation, "A method as in claim 12, wherein at least one of said first and second portable electronic devices is a compact disc (CD) player". (paragraph 17)

Regarding claim 24, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a device for switching among wireless audio sources. Jakobsson meets the following limitations:

a wireless receiver which receives a plurality of audio signals transmitted from

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respective wireless audio sources; (paragraphs 17 and 18)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 17 and 18)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraphs 17 and 18)

an audio signal-reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output.

(paragraphs 17 and 18 - master cell phone to wireless headset)

Regarding claim 27, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a programmable audio device. Jakobsson meets the following limitations:

a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio sources; (paragraphs 17 and 18 and Figures 1 & 2)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraph 17 -inherent with the master cell controller)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering; event; (paragraph 17-master cell phone to wireless headset)

a headset for supporting said wireless receiver, said storage device, said programmable switch and at least one headset speaker, said at least one headset speaker being coupled to said programmable switch to aurally reproduce said one of said plurality of audio signals selected for output. (Figures 1& 2 and paragraphs 17 and 18)

Regarding claim 30, Jakobsson meets the limitation, "A programmable audio output device as in claim 27, wherein said designated triggering event is receipt of a mobile telephone transmission. (paragraph 17)

Regarding claim 33, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a system of electronic devices. Jakobsson meets the following limitations:

a plurality of wireless audio source devices; and
at least one programmable audio output device, comprising:

a wireless receiver which receives a plurality of audio signals transmitted from respective wireless audio source devices; (paragraphs 17 and 18)

a storage device that stores at least one selection instruction which includes a designated triggering event for triggering said selection; (paragraphs 17 and 18 – inherent to master cell phone)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraph 17 and 18 – master cell phone to wireless headset)

an audio signal reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output. (paragraphs 17 and 18 - master cell phone to wireless headset)

Regarding claim 34, Jakobsson meets the limitation, “A system as in claim 33, wherein said programmable audio output device is programmed using one of said plurality of wireless audio source devices” (paragraphs 17 – the cell phone).

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Regarding claims 25, 28 and 35, Jakobsson meets the limitation, “wherein said wireless audio source devices are in RF communication with said wireless receiver”. (paragraph 17 and Figures 1 and 2)

Regarding claims 26, 29 and 36, Jakobsson meets the limitation, “wherein said wireless receiver and said wireless audio source devices are Bluetooth compliant”. (paragraph 0002)

Regarding claim 39, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a method of switching among wireless audio sources, comprising:

receiving a plurality of input audio signals from the same network from respective wireless audio sources at a wireless receiver; (paragraph 0017, 0018) and

selecting one of said plurality of input audio signals for output from an audio signal reproducing device coupled to said wireless receiver, said selecting being performed according to at least one stored selection instruction which specifies a designated triggering event for triggering said selection. (paragraph 0017, 0018)

Regarding claim 40, Jakobsson meets the limitation - The method as in claim 39 wherein the network comprises a piconet. (paragraph 0017, 0018)

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Regarding claim 41, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a method of switching among wireless audio sources, comprising:

receiving a plurality of Bluetooth compliant transmissions, each including a respective input audio signal from the same network, from respective electronic devices; (paragraph 0017, 0018) and

selecting at least one of said received audio signals for output to a headset in accordance with at least one stored selection instruction, said selection instruction specifying a designated triggering event for triggering said selection. (paragraph 0017, 0018)

Regarding claim 42, Jakobsson meets the limitation - The method as in claim 41 wherein the network comprises a piconet. (paragraph 0017)

Regarding claim 43, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a device for switching among wireless audio sources comprising:

a wireless receiver which receives a plurality of audio signals from the same network transmitted from respective wireless audio sources; (paragraph 0017, 0018)

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a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering said selection; (paragraph 0017, 0018)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraph 0017, 0018) and

an audio signal reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output. (paragraph 0017, 0018)

Regarding claim 44, Jakobsson meets the limitation - The method as in claim 43 wherein the network comprises a piconet. (paragraph 0017)

Regarding claim 45, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a programmable audio output device, comprising:

a wireless receiver which receives a plurality of audio signals from the same network transmitted from respective wireless audio sources; (paragraph 0017)

a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering said selection; (paragraph 0017)

a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraph 0017) and a headset for supporting said wireless receiver, said storage device, said programmable switch and at least one headset speaker, said at least one headset speaker being coupled to said programmable switch to aurally reproduce said one of said plurality of audio signals selected for output. (paragraph 0017)

Regarding claim 46, Jakobsson meets the limitation - The method as in claim 45 wherein the network comprises a piconet. (paragraph 0017)

Regarding claim 47, Jakobsson discloses a small local area network providing local wireless communications between devices operating in compliance with the Bluetooth standard (paragraph 0002). Jakobsson can be said to provide a system of electronic devices, comprising:

a plurality of wireless audio source devices; (paragraph 0017) and at least one programmable audio output device, comprising:

a wireless receiver which receives a plurality of audio signals from the same network transmitted from respective wireless audio source devices; (paragraph 0017)

a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering said selection; (paragraph 0017)

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a programmable switch coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output according to said at least one stored selection instruction and said designated triggering event; (paragraph 0017) and

an audio signal reproducing device coupled to said programmable switch that aurally reproduces said one of said plurality of audio signals selected for output. (paragraph 0017)

Regarding claim 48, Jakobsson meets the limitation - The method as in claim 47 wherein the network comprises a piconet. (paragraph 0017)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5, 13, 16, 20, 22, 23, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jakobsson et al.

Regarding claims 13, 20, 22, and 23, Jakobsson does not discuss utilizing devices other than the CD player as alternate audio sources.

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However, the examiner takes Official Notice that it is well known to utilize different audio sources in a switching scheme such as that of applicant's invention and that it would have been obvious for Jakobsson to allow for alternate audio sources since each of these sources would utilize the same line level input.

Regarding claims 5, 16, and 32, Jakobsson does not discuss utilizing a timing event as a trigger.

However, the examiner takes Official Notice that it is well known to utilize a timing event as a trigger and that it would have been obvious to modify Jakobsson to allow a timing event to affect the switching process in order to serve as an alarm situation.

Regarding claim 31, it is obvious that the receiving of an electronic message is analogous to receiving a telephone call and that and, as such, would utilize a similar mechanism.

Allowable Subject Matter

Claims 37 and 38 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 37, methods where the receipt of an incoming information update are used to trigger a switching mechanism between the outputs of audio sources was neither found, suggested, nor made evident by the prior art.

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Regarding claim 38, methods where the receipt of an advertising message from a merchant are utilized to trigger a switching mechanism between audio sources was neither found, suggested, nor made evident by the prior art.

Claims 6 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 6, methods where the receipt of an incoming information update are used to trigger a switching mechanism between the outputs of audio sources was neither found, suggested, nor made evident by the prior art.

Regarding claim 18, methods where the receipt of an advertising message from a merchant are utilized to trigger a switching mechanism between audio sources was neither found, suggested, nor made evident by the prior art.

Conclusion

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Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.

Alan T. Gantt
Alan T. Gantt

December 22, 2004

Nick Corsaro
NICK CORSARO
PRIMARY EXAMINER